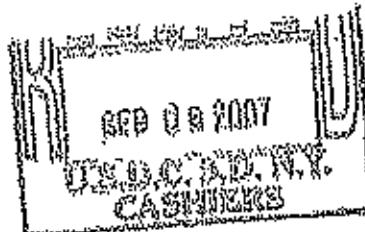


JUDGE CHIN

DUANE MORRIS LLP
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and

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 Jesse A. Mudd (pro hac application to be filed)
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Attorneys for Defendant
 Caudill Seed & Warehouse Co. d/b/a Caudill Seed Co.

IN THE UNITED STATES DISTRICT COURT
 FOR THE SOUTHERN DISTRICT OF NEW YORK

07 CIV 7845

BRASSICA PROTECTION PRODUCTS, L.L.C.,

Civil Action No.

Plaintiff,

NOTICE OF REMOVAL

CAUDILL SEED & WAREHOUSE CO., INC.
 d/b/a CAUDILL SEED CO.,

Defendant.

X

Defendant, Caudill Seed & Warehouse Co., Inc. d/b/a Caudill Seed Co. ("CSC"), through counsel, hereby files this Notice of Removal with the United States District Court for the Southern District of New York, and in support of same, respectfully states as follows:

1. On August 6, 2007, a civil action captioned Brassica Protection Products LLC v. Caudill Seed & Warehouse Co., Inc. d/b/a Caudill Seed Co., Index No. 602664/07 (hereinafter the "State Court Action"), was filed in the Supreme Court of the State of New York, New York County. Copies of the Summons and Complaint are attached as Exhibit A.

2. A review of the file from the New York County Clerk's Office reveals that the only documents on file are the original Summons and Complaint, and an Affidavit of Service sworn to on August 7, 2007. Attached as Exhibit B is a copy of the Affidavit of Service. Accordingly, as required by Local Rule 83.1, the copies of the Summons and Complaint attached as Exhibit A and the Affidavit of Service attached as Exhibit B constitute the entirety of the pleadings filed in the State Court Action. Based upon the State Court Action's file, no further proceedings have taken place in the State Court Action.

3. A copy of the Summons and Complaint attached as Exhibit A was purportedly served on CSC on August 7, 2007.

4. Therefore, this Notice of Removal is being filed in a timely manner pursuant to 28 U.S.C. § 1446(b), as it is within 30 days after purported service of copy of the Complaint upon CSC.

5. Pursuant to 28 U.S.C. § 1331, this Court has original federal question jurisdiction over the State Court Action based upon Plaintiff's causes of action for Trademark Infringement and Tarnishment under 15 U.S.C. § 1125(a). As such, the State Court Action may be removed to this Court pursuant to 28 U.S.C. § 1441 as this Court has subject matter jurisdiction based upon these federal questions presented by Plaintiff in its Complaint.

6. Furthermore, any claims as to which this Court has not been expressly granted jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1441 are properly within this Court's

supplemental jurisdiction pursuant to 28 U.S.C. § 1337 as they are so related to the claims within this Court's original jurisdiction that they share a common nucleus of operative fact and form part of the same case or controversy. There is no ground upon which this Court should decline to exercise its supplemental jurisdiction under 28 U.S.C. § 1337(c).

7. By this Notice of Removal, CSC does not waive any defenses available to it in this action, including lack of service of process, insufficiency of process, lack of personal jurisdiction, improper venue or any other procedural or substantive defects concerning the allegations in the Complaint.

8. Pursuant to 28 U.S.C. § 1446(d), written notice of the filing of this Notice of Removal will be served upon the Plaintiff.

9. Pursuant to 28 U.S.C. § 1446(d), written notice of this Notice of Removal and a true and correct copy thereof will be filed with the Supreme Court of the State of New York, New York County.

10. This Notice of Removal has been verified by the undersigned counsel for CSC pursuant to 28 U.S.C. § 1446(a) and with respect to Rule 11 of the Federal Rules of Civil Procedure.

WHEREFORE, CSC respectfully notifies this Court that the State Court Action pending in the Supreme Court of the State of New York, New York County, bearing Index No. 602664/07, has been removed to this Court in accordance with the foregoing statutory provisions.

Dated: New York, N.Y.
September 5, 2007

Respectfully submitted,

DUANE MORRIS LLP

By: 

Gregory P. Gulia (GG 4215)
Vanessa Hew (VH 4617)
1540 Broadway
New York, New York 10036-4086
(212) 692-1000

-and-

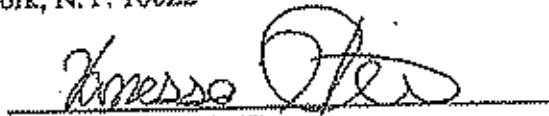
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(502) 589-4200

Attorneys for Defendant
Caudill Seed & Warehouse Co. d/b/a
Caudill Seed Co.

CERTIFICATE OF SERVICE

I hereby certify that I caused a true copy of the Notice of Removal to be served by U.S. first class mail, postage prepaid, this 5th day of September, 2007 to:

Edward L. Powers, Esq.
Bingham McCutchen LLP
399 Park Avenue
New York, N.Y. 10022



Vanessa C. Hew

DM00244924.1

U.S. DISTRICT COURT - JUDICIAL CASELOAD PROFILE

			12-MONTH PERIOD ENDING SEPTEMBER 30							
KENTUCKY WESTERN			2006	2005	2004	2003	2002	2001	Numerical Standing	
OVERALL CASELOAD STATISTICS	Filings*		1,742	1,761	1,670	1,896	1,778	1,742	U.S.	Circuit
	Terminations		1,719	1,822	1,826	1,750	1,740	1,666		
	Pending		1,598	1,570	1,624	1,731	1,605	1,597		
	% Change in Total Filings		Over Last Year		-1.1				26	3
			Over Earlier Years			4.3	-3.1	-2.0	51	4
	Number of Judgeships		4.50	4.50	4.50	4.50	4.50	4.50		
ACTIONS PER JUDGESHIP	Vacant Judgeship Months**		.0	.0	.0	.0	.0	.0		
	FILINGS	Total		383	391	371	421	395	387	59
		Civil		314	321	316	356	326	327	50
		Criminal Felony		59	50	42	52	54	60	7
	Supervised Release Hearings**			15	20	13	13	15	-	65
	Pending Cases			355	349	361	385	357	355	58
	Weighted Filings**			410	408	386	432	418	420	59
	Terminations			382	405	406	389	387	370	62
	Trials Completed			24	22	22	22	19	18	24
	MEDIAN TIMES (months)	From Filing to Disposition		9.7	10.9	10.5	8.5	9.1	7.6	60
		Criminal Felony								5
		Civil**		8.7	11.0	10.0	9.0	10.4	8.3	30
	From Filing to Trial** (Civil Only)			27.5	32.0	20.3	27.5	31.5	23.5	56
OTHER	Civil Cases Over 3 Years Old**		Number		92	80	67	40	52	69
			Percentage		7.0	6.0	4.7	2.6	3.7	5.0
	Average Number of Felony Defendants Filed Per Case			1.5	1.5	1.3	1.5	1.5	1.5	
	JURORS	Avg. Present for Jury Selection		43.53	40.03	45.90	38.27	42.15	44.35	
		Percent Not Selected or Challenged		20.6	33.2	40.4	23.4	31.5	32.1	

2006 CIVIL AND CRIMINAL FELONY FILINGS BY NATURE OF SUIT AND OFFENSE

Type of	TOTAL	A	B	C	D	E	F	G	H	I	J	K	L
Civil	1411	110	203	175	21	126	127	188	187	35	165	2	72
Criminal*	262	8	90	6	61	30	9	24	7	5	2	3	12

* Filings in the "Overall Caseload Statistics" section include criminal transfers, while filings "By Nature of Offense" do not.

** See "Explanation of Selected Terms."

U.S. DISTRICT COURT - JUDICIAL CASELOAD PROFILE

		12-MONTH PERIOD ENDING SEPTEMBER 30							
NEW YORK SOUTHERN		2006	2005	2004	2003	2002	2001	Numerical Standing	
OVERALL CASeload STATISTICS	Filings*	12,201	12,945	12,422	12,321	13,937	12,783	U.S.	Circuit
	Terminations	11,339	11,346	11,471	10,780	12,618	11,247		
	Pending	20,047	19,302	17,638	17,275	16,198	15,318		
	% Change in Total Filings	Over Last Year		-3.3				56	5
		Over Earlier Years		-1.8	-1.0	-13.5	-4.6	59	2
	Number of Judgeships	28	28	28	28	28	28		
Vacant Judgeship Months**		2.0	6.3	8.8	33.3	15.8	.0		
ACTIONS PER JUDGESHIP	FILINGS	Total	435	462	444	441	498	457	43
		Civil	385	409	388	381	441	420	21
		Criminal Felony	34	40	44	47	48	37	87
		Supervised Release Hearings**	16	13	12	13	9	-	64
	Pending Cases		716	689	630	617	579	565	8
	Weighted Filings**		501	551	527	513	539	560	28
	Terminations		405	403	410	385	451	402	55
	Trials Completed		13	15	16	17	15	15	71
MEDIAN TIMES (months)	From Filing to Disposition	Criminal Felony	16.7	14.5	11.9	11.8	13.3	12.3	93
		Civil**	8.3	8.8	8.1	8.4	8.3	7.2	23
	From Filing to Trial** (Civil Only)		25.7	22.0	26.8	22.6	23.0	24.4	48
OTHER	Civil Cases Over 3 Years Old**	Number	3,107	2,652	1,656	1,312	1,230	1,585	
		Percentage	18.4	16.7	11.6	9.2	9.2	12.1	89
	Average Number of Felony Defendants Filed Per Case		1.7	1.9	1.7	1.5	1.5	1.6	
	Juryors	Avg. Present for Jury Selection	96.33	99.86	88.01	82.96	83.28	73.12	
		Percent Not Selected or Challenged	60.4	62.0	53.1	54.8	61.9	53.2	

2006 CIVIL AND CRIMINAL FELONY FILINGS BY NATURE OF SUIT AND OFFENSE													
Type of	TOTAL	A	B	C	D	E	F	G	H	I	J	K	L
Civil	10793	230	767	1147	83	38	945	2257	1622	835	1374	66	1424
Criminal*	943	5	269	170	111	225	29	28	11	24	24	9	38

* Filings in the "Overall Caseload Statistics" section include criminal transfers, while filings "By Nature of Offense" do not.

** See "Explanation of Selected Terms."